

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

11 DEVONTE B. HARRIS,

12 Plaintiff,

13 v.

14 ROXANNE COLEMAN,

15 Defendant.

16 Case No.: 1:20-cv-00759-ADA-SKO (PC)

**AMENDED ORDER SETTING
SETTLEMENT CONFERENCE AND
SETTLEMENT CONFERENCE
PROCEDURES**

**Telephonic Pre-Settlement Conference:
2/8/2023 at 11:00 a.m.**

**Settlement Conference: 2/14/2023 at
10:30 a.m. via Zoom Videoconference**

20 Plaintiff Devonte B. Harris is proceeding *pro se* in this civil rights action pursuant to 42
21 U.S.C. § 1983 on a single claim of retaliation in violation of the First Amendment against
22 Defendant R. Coleman.

23 On September 13, 2022, the Court issued its Order Setting Settlement Conference and
24 Settlement Conference Procedures. (Doc. 41.)

25 On October 25, 2022, Plaintiff filed a motion to continue the settlement conference
26 scheduled for November 8, 2022. (Doc. 44.) Plaintiff stated he had been unable to comply with
27 this Court's order to engage in informal negotiations and to file a confidential settlement
28 conference statement, had limited law library access and limited access to his legal materials, and

1 was required to tend to the obligations associated with representing himself in pending state
2 criminal matters. (*Id.*) On October 28, 2022, Defendant filed a statement of non-opposition to
3 Plaintiff's motion. (Doc. 45.)

4 On October 31, 2022, the undersigned issued a minute order vacating the telephonic pre-
5 settlement conference set for November 2, 2022, and the settlement conference set for November
6 8, 2022. (Doc. 48 [text entry only].) The Court also re-set this matter for a Telephonic Pre-
7 Settlement Conference to be held February 8, 2023, at 11:00 a.m. and a Settlement Conference to
8 be held February 14, 2023, at 10:30 a.m., with an amended order to be issued by the Court. (*Id.*)

9 Accordingly, it is hereby **ORDERED** that:

- 10 1. The Court SETS a telephonic pre-settlement conference for **February 8, 2023, at**
11 **11:00 a.m.** before the undersigned to discuss whether the settlement conference will
12 be productive. Defense counsel shall arrange for Plaintiff's participation. The parties
13 shall dial 1-888-557-8511 and enter access code 6208204# for the telephonic
14 conference.
- 15 2. A settlement conference is scheduled to occur on **February 14, 2023, at 10:30 a.m.**,
16 before the undersigned, via Zoom videoconference. Defense counsel shall arrange for
17 Plaintiff's participation. Prior to the conference, defense counsel shall contact the
18 undersigned's courtroom deputy at wkusamura@caed.uscourts.gov for the Zoom
19 videoconference connection information. The Court will issue a writ of *habeas corpus*
20 *ad testificandum* to allow for Plaintiff's participation, as appropriate.
- 21 3. Each party or a representative with full authority to negotiate and enter into a binding
22 settlement agreement shall participate in the conference. The failure of any counsel,
23 party, or authorized person subject to this order to participate in the conference may
24 result in the imposition of sanctions.
- 25 4. Consideration of settlement is a serious matter that requires thorough preparation prior
26 to the settlement conference. Participants in the conference must be prepared to
27 discuss the claims, defenses, and damages.
- 28 5. The parties shall engage in informal settlement negotiations as follows:

1 No later than **December 30, 2022**, Plaintiff shall submit to Defendants, by mail, a
2 written itemization of damages and a meaningful settlement demand, including a brief
3 explanation of why such settlement is appropriate, which shall not exceed 5 pages.

4 No later than **January 9, 2023**, Defendants shall respond, by mail or telephone, with
5 an acceptance of Plaintiff's offer or a meaningful counteroffer, including a brief
6 explanation of why such settlement is appropriate. If settlement is achieved, the parties
7 shall file a Notice of Settlement as required by Local Rule 160.

- 8 6. If settlement is not achieved informally, the parties shall submit confidential
9 settlement conference statements no later than **January 24, 2023**. Defendants shall
10 email their statement to skoorders@caed.uscourts.gov. Plaintiff shall mail his
11 statement, clearly captioned "Confidential Settlement Conference Statement," to
12 United States District Court, Attn: Magistrate Judge Sheila K. Oberto, 2500 Tulare
13 Street, Room 1501, Fresno, CA 93721.

14 Once the parties have submitted their statements, they shall file a "Notice of
15 Submission of Confidential Settlement Conference Statement" with the court. The
16 confidential settlement conference statements themselves **should not be filed** with the
17 court **nor served** on the opposing party.

- 18 7. The confidential settlement conference statements should be no longer than 5 pages in
19 length and include:
20
21 a. A brief summary of the facts of the case;
22 b. A brief summary of the claims and defenses of the case, i.e., the statutory,
23 constitutional, or other grounds upon which the claims are founded;
24 c. A forthright discussion of the strengths and weaknesses of the case and an
25 evaluation of the likelihood of prevailing on the claims or defenses, from the
26 party's perspective, and a description of the major issues in dispute;
27 d. An estimate of the party's expected costs and time to be expended for further
28 discovery, pretrial matters, and trial;

- 1 e. A summary of past settlement discussions, including the informal settlement
2 negotiations required above; a statement of the party's current position on
3 settlement, including the amount the party would offer and accept to settle (in
4 specific dollar amounts); and a statement of the party's expectations for
5 settlement discussions;
- 6 f. An estimate of any restitution allocated to Plaintiff, or other financial
7 obligation assigned to Plaintiff, that would affect the parties' settlement
8 discussions;
- 9 g. A list of the individuals who will be attending the conference on the party's
10 behalf, including names and, if appropriate, titles; and,
- 11 h. If a party intends to discuss the settlement of any other actions or claims not
12 raised in this suit, a brief description of each action or claim, including case
13 number(s), as applicable.

14 The Clerk of the Court is directed to serve a courtesy copy of this Order via email on the
15 Litigation Coordinator at the facility housing Plaintiff to help ensure that Plaintiff receives a copy
16 of this Order as soon as possible.

17 IT IS SO ORDERED.
18

19 Dated: November 1, 2022

/s/ Sheila K. Oberto
20 UNITED STATES MAGISTRATE JUDGE

21
22
23
24
25
26
27
28